IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 21650 of 2007(B)

PETITIONER:

SMT. LAILA,
RESIDING AT EDAKKATTIL HOUSE,
ALOOR P.O., THRISSUR DISTRICT.

BY ADV. SRI.T.RAJASEKHARAN NAIR
SRI.PRAMOD J.DEV

RESPONDENTS:
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1. MULLORKARA GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, MULLORKARA P.O.,
MULLORKARA, THRISSUR DISTRICT.

2. T. ALI, S/O. YOUSEF,
THOTTINGAL HOUSE, P.O. ALOOR, MULLORKARA, THRISSUR

BY ADVS. SRI.V.R.KESAVA KAIMAL --- R2
SRI.N.M.MADHU
SRI.D.SREEKUMAR --- R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 21650/2007 B

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT DT. 28/11/2006 IN WPC NO. 20983/2006.

EXT.P2. COPY OF THE ORDER, DT. 22/2/07, BY THE R1 TO THE PETITIONER.

EXT.P3. COPY OF THE JUDGMENT DT. 7/6/07 IN WPC NO. 11135/2007 BY THIS COURT.

EXT.P4. COPY OF THE STATEMENT DT. 30/6/07, BY THE PETITIONER BEFORE THE R1.

EXT.P5. COPY OF THE ORDER DT. 30/6/07 BY THE R1.

EXT.P6. COPY OF THE APPEAL SUBMITTED BY THE PETITIONER.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE ORDER NO. B2/109/06 DT. 28/2/2007 BY THE PANCHAYATH.

EXT.R1B. COPY OF THE REGISTERED NOTICE WAS ALSO USED TO THE PETITIONER.

EXT.R1C. COPY OF THE LETTER WITH POSTAL ENDORSEMENT.

EXT.R1D. COPY OF THE RELEVANT PAGE OF THE ASST. REGISTER PERTAINING TO THE PETITIONER.

EXT.R1E. COPY OF THE MINUTES OF THE SAID MEETING.

EXT.R1F. COPY OF THE LETTER ISSUED BY THE VILLAGE OFFICER.

EXT.R1G. COPY OF THE DIRECTION ISSUED BY THE DIST. COLLECTOR.

EXT.R2A. COPY OF THE NOTICE OF CONTEMPT DT. 21/2/2007.

EXT.R2B. COPY OF THE ACKNOWLEDGMENT CARD.

EXT.R2C. COPY OF THE NOTICE DT. 28/2/2007 BY THE R1.

EXT.R2D. COPY OF THE NOTICE DT. 2/6/07 BEFORE THE R1.

EXT.R2E. COPY OF THE NOTICE DT. 2/5/607 BY THE R1.

EXT.R2F. COPY OF THE DECISION TAKEN BY THE R1 ON 30/6/07.

True copy

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PIUS C. KURIAKOSE, J.

W.P.(C) No. 21650 OF 2007

Dated this the 24th day of October, 2007

JUDGMENT

I have heard the submissions of Mr.Pramod J. Dev, counsel for the petitioner and those of Mr.D.Sreekumar, counsel for the Panchayat and Sri.V.R.K.Kaimal, counsel for the party respondent. Mr.Pramod J. Dev would make submissions on the basis of the various grounds raised in the Writ Petition and assail Ext.P5 order. Both Mr.Kaimal and Mr.Sreekumar submitted that Ext.P5 has already been implemented pursuant to a direction in that regard issued by the District Collector. They also submit that the person who is presently in occupation of the hut which used to be occupied by the petitioner is a different person. The present Writ Petition is an abuse of the process of this Court, according to them.

I have no difficulty to find that the present Writ Petition is not maintainable since the petitioner has statutory remedies by way of appeal against Ext.P5 before the committee of the Panchayat. This court originally granted stay of Ext.P5. That stay get expired and an application for revival and extension of stay is pending. There is stiff opposition to revive and extend the stay on the reason that the petitioner is not in actual physical occupation of the hut. Mr.Kaimal has a further

contention that the petitioner has suppressed material facts in describing herself as a widow. Sri.Edakkattil Mani, husband of the petitioner is alive and kicking. I dispose of the Writ Petition relegating the petitioner to remedy by way of appeal to the Committee against Ext.P5. However, as regards implementation of Ext.P5 pending disposal of the appeal, I direct that if the petitioner continues to be in residential occupation of the building in question then she will not be evicted. If it is seen that anybody other than the petitioner is in occupation of the hut, which is the subject matter of this Writ Petition, Ext.P5 will be enforced in spite of the prospective appeal to be filed for which permission is granted. Appeal, if any, shall be filed by the petitioner within one month from today and if the appeal is filed on time, it will be disposed of within another one month of registering the appeal.

PIUS C. KURIAKOSE, JUDGE

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